

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
and Nora Mead Brownell.

Boston Edison Company

Docket No. ER02-662-000

ORDER ACCEPTING UNEXECUTED INTERCONNECTION AGREEMENT

(Issued February 27, 2002)

On December 31, 2001, Boston Edison Company (Boston Edison) submitted for filing an unexecuted Interconnection Agreement (IA) between Boston Edison and IDC Bellingham, LLC (Bellingham). In this order, the Commission accepts the IA for filing, effective March 1, 2002. Our decision here benefits the public interest by encouraging investment in new generation and making markets more competitive.

I. Background

Bellingham, an independent power producer, plans to construct a gas-fired combined-cycle generating facility of approximately 525 megawatts maximum output in Boston Edison's service territory in Bellingham, Massachusetts.¹ Boston Edison and ISO-New England, Inc. performed a system impact study that identified certain actions that are required to meet NEPOOL's Minimum Interconnection Standard (MIS).²

Boston Edison states that it would pay Bellingham one-half of the costs for constructing the Bellingham substation plus one-half of the system upgrade costs to the extent that the costs qualify as Pool Transmission Facility (PTF) costs pursuant to the

¹Bellingham expects the facility's in-service date to be August 2004.

²These actions include the replacement of three 345kV circuit breakers, installation of an additional 345 kV circuit breaker, relaying changes and looping of a transmission line into Bellingham's substation.

NEPOOL Agreement. Boston Edison states that the IA substantially complies with Boston Edison's recently approved Standard Interconnection Agreement.³

Notice of the filing was published in the Federal Register, 67 Fed. Reg. 1335 (2002), with comments, protests, and interventions due on or before January 22, 2002. On January 22, 2002, IDC Bellingham filed an intervention and protest. On February 19, 2002, Boston Edison filed an answer to Bellingham's protest.

II. Discussion

A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁴ the timely, unopposed motion to intervene and protest by IDC Bellingham serves to make it party to this proceeding. Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. ¶ 384.213 (2001), Boston Edison's February 19th Answer is rejected.

B. Assignment of Costs

Boston Edison contends that, as a Category B generator⁵ within NEPOOL, Bellingham is entitled to cost-sharing of no more than 50 percent of its expenditures on system upgrades to the extent they qualify as Pool Transmission Facilities pursuant to the NEPOOL Agreement. Boston Edison argues that its Standard Interconnection Agreement specifies the magnitude and the timing of the reimbursement of any such costs to which the Customer is entitled pursuant to NEPOOL rules. Further, Boston Edison contends that the Commission has already taken into account the regional practices in New

³See Cambridge Electric Light Company, et al., 95 FERC ¶ 61,339 (2001) (the June 1 Order), order on reh'g, 96 FERC ¶ 61,205 (2001) (the August 13 Order), order on compliance filing, 96 FERC ¶ 61,269 (2001), and Letter Order dated December 6, 2001 in Docket No. ER01-1695.

⁴18 C.F.R. §385.214 (2001).

⁵Category B generator projects are a group of projects as to which the generator-owner had expended at least \$5,000,000 with respect to the project as of June 22, 1999, and as to which the Commission has ordered 50/50 cost sharing between the generator and the pool. See ISO New England, Inc., 95 FERC ¶ 61,384 at 62,434-35 (2001) (June 13 Order).

England and the fact that generators do not pay transmission to bring their power to market so as to allow for Category B generator cost-sharing arrangements.

Bellingham asserts that the proposed facilities will be part of Boston Edison's integrated transmission system and thus that it should be eligible for transmission credits and interest on those credits. It argues that the Commission's recent order in Entergy Gulf States, Inc., 98 FERC ¶ 61,014, slip op. at 6 (2002), in which the Commission reiterated its long-standing policy prohibiting the direct assignment of network facilities, should apply to the proposed facilities. Bellingham states that the looping of the transmission line, the circuit breakers and other upgrades will be located on Boston Edison's side of the interconnection point, will be owned and operated by Boston Edison, and thus are part of Boston Edison's integrated transmission system that is used by all of Boston Edison's transmission customers.

We find that the IA is consistent with our prior line of cases. In ISO New England, Inc. (ISO New England), 91 FERC ¶ 61,311 at 62,079 (2000), as affirmed on rehearing in ISO New England, 95 FERC ¶ 61,384 at 62,434-5, we approved for ISO New England, in the context of a congestion management proposal, the allocation of 100 percent of the costs of interconnection and related system upgrades to interconnecting generators. However, we did not require that this 100 percent allocation be applied to certain generators; we found that it was appropriate to apply 50/50 cost allocation to Category B generators, because these generators had already entered into binding commitments and decisions regarding the generation projects had already been made.⁶ The Cambridge cases did not overturn the ISO New England decision. In the June 1

⁶In ISO New England, the Commission stated that other generators would pay 100% of the costs of interconnection. The Commission later clarified that, to the extent the facilities provide pool-wide benefits and the generator has not agreed to pay, the costs of MIS upgrades may be pool-supported. In that order, the Commission stated:

We expect that the costs of facilities needed to satisfy MIS will ordinarily provide benefits principally to the interconnecting generator, not to the system generally...[b]ut if ISO-NE determines that particular MIS facilities provide benefits to entities other than the interconnecting generator, MIS costs should be treated the same as any expansion or upgrade cost - assigned to the party or parties who benefit or are willing to pay, and otherwise charged according to objective, non-discriminatory standards.

Order, we required only "an equitable method of allocating the costs" between the generator and other parties.⁷ In the August 13 Order,⁸ we noted that Bellingham would have an opportunity to show why a facility was part of the integrated transmission facilities of a transmission company, and could then require the transmission company to provide compensation. That ruling, however, did not take into account the fact that the IDC Bellingham project was a Category B project. The ISO New England series of orders addressing the question of cost-sharing for Category A and Category B generators within New England made it clear that, because decisions regarding these projects had already been made, it was reasonable to apply the 50/50 allocation that the Commission had previously indicated it was considering to this group of generation projects.⁹ Accordingly, the facilities costs that Bellingham disputes are appropriately assigned it under a 50/50 cost allocation.

C. Payment of Facilities Costs

Boston Edison states that Bellingham should pay an Annual Facilities Charge (AFC) to operate and maintain the new facilities that are not part of the Boston Edison's integrated system. It also states that Bellingham should pay for providing station service obligations to the new substation, because the interconnection facilities include a new substation at or adjacent to Bellingham's generator which is not part of Boston Edison's integrated transmission system.

Bellingham contends that Boston Edison cannot impose on it an AFC to operate and maintain (O & M) facilities that are part of Boston Edison's integrated transmission system. Bellingham states that Sections 5.6 of the IA improperly imposes charges to operate and maintain the upgrades and Section that 11.3 imposes charges for station service power on Bellingham's new substation. According to Bellingham, the charges should instead be recovered through a system-wide transmission charge.¹⁰

⁷95 FERC at 62,278.

⁸96 FERC at 61,874-75.

⁹ISO New England, Inc., 95 FERC at 62,433.

¹⁰In support, Bellingham cites Duke Energy Corporation, 95 FERC ¶ 61,279 at 61,980 (2001), holding that it is not appropriate to assess O&M charges, in so far as the facilities are network upgrades and "[t]hat these costs may be included in a system-wide transmission rate."

We agree that Boston Edison cannot impose on Bellingham ongoing charges to operate and maintain facilities that are part of Boston Edison's integrated transmission system. In Duke Energy,¹¹ we held that for facilities that are network upgrades, it is not appropriate to assess O & M charges. Thus, the Bellingham facilities that are part of Boston Edison's integrated transmission system should not be assessed O & M costs.¹²

Section 5.6 of the proposed IA, however, provides that only facilities that are not part of Boston Edison's integrated transmission system will face the AFC. In addition, Section 5.6 also states that AFC will only apply to those line items in Schedule 2 of the agreement that are flagged with an asterisk. No items in Schedule 2 are flagged with an asterisk. Thus, Bellingham's concern is misplaced. Similarly, Section 11.3 provides that only a new substation that is not part of Boston Edison's integrated transmission system will be required to provide its own station service requirements at no cost to Boston Edison. In addition, there is no material difference between Section 11.3 of the Boston Edison-Bellingham Agreement and Boston Edison's recently approved Standard Interconnection Agreement.

D. Parent Guaranty

Boston Edison contends that Bellingham is trying to force it to accept a payment guaranty from a corporate parent, a form of security Boston Edison states that it has never accepted from any other generator. Moreover, Boston Edison contends that it should not have to accept a parent guaranty from a corporate parent before Boston Edison has made any kind of creditworthiness check on Bellingham or its parent.

Bellingham claims that the security obligations under the proposed IA are unreasonable. It argues that Boston Edison has refused to allow a parent guaranty from Bellingham's parent, FLP Group Capital.¹³ Further, Bellingham asserts that it is unreasonable for Boston Edison to require Bellingham to continue to post the full amount

¹¹See 95 FERC at 61,980.

¹²See Cambridge Electric Light Company, et al., 96 FERC at 61,876. See also Entergy Gulf States, Inc., 98 FERC ¶ 61,014, slip op. at 6, holding that "[n]etwork facilities include all facilities at or beyond the point where the customer or generator connect to the grid."

¹³Bellingham states that FLP Group Capital has excellent credit and is currently rated A2/A by Moody's and Standard and Poor's, the same credit rating as Boston Edison's parent, NSTAR Electric & Gas Corporation.

of interconnection costs as security and that the amount of security should be reduced in lock-step with Bellingham's payments.

In Cambridge Electric Light Company,¹⁴ we did not require Boston Edison to accept a guaranty from the parent of a generator. The proposed IA complies with Cambridge; it allows a generator the option of making installment payments, paying in full up front for the new generator's portion of the necessary upgrades, or submitting a letter of credit for the amount of the upgrades, so long as such option is acceptable to Boston Edison and is consistent with the commercial practices of the Uniform Commercial Code. Thus, we will not require Boston Edison to accept a parent guaranty as a form of security from Bellingham.

E. Notice to Proceed

Boston Edison contends that Bellingham wants liberalized timing regarding its Notice to Proceed. The proposed IA differs from Boston Edison's Standard Interconnection Agreement in that the proposed IA states that the Customer must issue its Notice to Proceed within ninety days of this Commission's acceptance of the Agreement, as opposed to within 90 days of execution (per the Standard Interconnection Agreement). Thus, Boston Edison argues that the IA is more favorable to Bellingham than is the Standard Interconnection Agreement.

Bellingham asserts that the IA should allow for reasonable flexibility in constructing the Bellingham plant. Bellingham states that it is possible that factors beyond its control, such as the inability to secure required permits from the state regulatory authorities, might force it to terminate the IA, and that the IA should allow for such delays. Bellingham also claims that it should be allowed the same flexibility proposed in the Advanced NOPR on Standardizing Generator Interconnection Agreement and Procedures.

We agree with Boston Edison that the proposed IA provides Bellingham with greater flexibility than does the Standard Interconnection Agreement. Under ordinary circumstances, the Commission's acceptance would follow up to 60 days after the filing of an executed interconnection agreement. Boston Edison's proposed language provides up to an additional 60 days more than the Standard Interconnection Agreement. Accordingly, The Notice to Proceed clock will start after the Commission's acceptance of the unexecuted interconnection agreement. The Commission's proceeding on

¹⁴See Letter Order dated December 6, 2001 in Docket No. ER01-1695.

Standardizing Generator Interconnection Agreement and Procedures has not been finalized, and we will not apply it here.

F. Service Interruptions to Interconnect New Generators

Boston Edison contends that it should not have to compensate Bellingham for generator curtailments needed to interconnect new generators. Boston Edison argues that nothing in the IA would prevent the payment of compensation for curtailments by ISO-NE or by a future successor RTO, if the governing agreements for such organizations provided for such payments. Boston Edison states that it does not have the day-to-day operating responsibility for the system and would therefore not be the party requiring such curtailments. The curtailments would be at the command of the ISO, and should be the responsibility of the ISO. Boston Edison states that there is no reason to depart from its Standard IA to accept responsibility for such payments.

Bellingham asserts that the IA should not preclude compensation for curtailments or service interruptions. Thus, Sections 7 and 13.8.2 of the IA should be revised to clearly provide that Bellingham is entitled to compensation to the extent authorized by the tariffs or agreements of NEPOOL, or any successor RTO.

In Cambridge Electric Light Company,¹⁵ we held that Boston Edison's Standard IA was proper in that "an interconnection customer will hold the company harmless for any curtailments to the customer's generator caused by maintenance, implementation upgrades, or interconnection of other generators."¹⁶ We agree with Boston Edison and will not require Boston Edison to be responsible for such costs.

¹⁵96 FERC ¶ 61,269.

¹⁶See id. at 62,025.

The Commission orders:

Boston Edison's proposed IA is hereby accepted for filing to become effective March 1, 2002, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.